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CENTRAL FAX CENTER****MAY 07 2007****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 09/996,663
Inventor(s) : Daniel Raymond Cerone
Filed : November 29, 2001
Art Unit : 3727
Examiner : Robin Annette Hylton
Docket No. : 8794
Confirmation No. : 4856
Customer No. : 27752
Title : Container Including a Slider, a Reclosable Fastener and a
Track Including a Ramp

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Reply Brief is filed pursuant to the Examiner's Answer filed March 7, 2007. The Appeal Brief was filed pursuant to appeal from the decision communicated in the Office Action mailed on April 6, 2006.

A timely Notice of Appeal was filed on June 28, 2006.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 1 to 20 are rejected.

Claims 1 to 20 are appealed.

A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

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STATUS OF AMENDMENTS

No amendment was filed.

SUMMARY OF CLAIMED SUBJECT MATTER

As provided in Claim 1, and using the reference numbers illustrated in Fig. 1, in one aspect the invention consists of a container 10 comprising a container body 12 comprising a first fastener portion 42 ; a cover 30 comprising a second fastener portion 44 adapted to engage the first fastener portion 42 to form a reclosable fastener 40 having a first end 53 and a second end 55, wherein the cover 30 defines an X-Y plane when the first fastener portion 42 and second fastener portion 44 are engaged; a track 46 comprising a track fastener portion 58 formed on the reclosable fastener 40 and a ramp 65 extending from the X-Y plane; and a slider 100 movable along the track 46 to open or close the reclosable fastener 40. See specification page 7, line 22 – page 10 line 18.

As provided in Claim 18, and using the reference numbers illustrated in Fig. 1, in one aspect the invention consists of a container 10 comprising a container body 12 comprising a first fastener portion 42 ; a cover 30 comprising a second fastener portion 44 adapted to engage the first fastener portion 42 to form a reclosable fastener 40 having a first end 53 and a second end 55, wherein the cover 30 defines an X-Y plane when the first fastener portion 42 and second fastener portion 44 are engaged; a track 46 comprising a track fastener portion 58 formed on the reclosable fastener 40 and a ramp 65 extending from the X-Y plane; and a slider 100 movable along the track 46 to open or close the reclosable fastener 40, and a location for parking the slider 100. See specification page 7, line 22 – page 10 line 18.

As provided in Claim 19, and using the reference numbers illustrated in Fig. 1, in one aspect the invention consists of a rigid elongate reclosable fastener 40 comprising interlocking protruded and recessed portions 42, 44, the fastener 40 defining a plane comprising orthogonal X and Y dimensions when the portions are interlocked, a slider 100, and a track 46 for the slider 100, the track 46 including a fastener portion 58 formed on at least one of the interlocking portions and a ramp 65 extending from a first end 53 of the interlocking portions at an angle to the X-Y plane, wherein the slider is moved along

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the track to open or close the interlocking portions. See specification page 7, line 22 – page 10 line 18.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Rejection under 35 USC §102(b) as being anticipated by Hupp (WO 01/51378)
Claims 1-20

REPLY TO THE ANSWER OF THE EXAMINER

1. Rejection of claims 1-20 under 35 USC §102(b) as being anticipated by Hupp (WO 01/51378).

The Examiner points to item 12 of figure 3 of the Hupp reference as defining an X-Y plane. The Examiner provides that item 64 in figure 2 extends from the first end of the closure and has an inclined surface extending at an angle from the X-Y plane defined by item 12.

Appellant submits that item 64 appears as an oval shape in figure 2 and that no relationship between item 64 and any plane defined by the cover when the two fastener portions are engaged may be determined from figure 2.

Appellant claims a track comprising a ramp which extends from the X-Y plane. Item 64 is distinct from the track (item 62) and therefore the referenced item fails to satisfy even this more basic claim requirement. Track 62 does not comprise item 64.

Beyond that, there is nothing in figure 2 which teaches or suggests that any portion of item 62 extends in an inclined manner so as to constitute a ramp from the plane defined when the fastener portions are engaged.

Portions of item 62 do deviate from the path of engaged fastener 14. The nature of this deviation is not illustrated in figure 3 and figure 2 shows the deviant aspect of item 62 to be coplanar with item 14. Nothing in the cited reference teaches or suggests that any portion of item 62 extends in an inclined manner so as to constitute a ramp from a plane defined when the two fastener portions are engaged.

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SUMMARY

The cited reference fails to teach or suggest each of the elements of the invention as claimed. Specifically, the illustrations of the reference cannot be said to teach a ramp necessarily extending from the plane defined by the engaged fastener of the container. In view of all of the above, it is respectfully requested that the rejection under 35 USC §102(b) be overturned.

Respectfully submitted,
THE PROCTER & GAMBLE COMPANY



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CLAIMS APPENDIX

1. (Rejected) A container comprising
 - (a) a container body comprising a first fastener portion;
 - (b) a cover comprising a second fastener portion adapted to engage the first fastener portion to form a reclosable fastener having a first end and a second end, wherein the cover defines an X-Y plane when the first fastener portion and second fastener portion are engaged;
 - (c) a track comprising a track fastener portion formed on the reclosable fastener and a ramp extending from the X-Y plane; and
 - (d) a slider movable along the track to open or close the reclosable fastener.
2. (Rejected) The container according to claim 1, wherein the slider is movable in the track in a closing direction from the second end of the reclosable fastener to the first end of the reclosable fastener and is movable in the track in an opening direction from the first end of the reclosable fastener to the second end of the reclosable fastener.
3. (Rejected) The container according to claim 2, wherein the ramp is adapted for parking the slider after closing the reclosable fastener.
4. (Rejected) The container according to claim 2, wherein the track further comprises an auxiliary track extending from the second end of the reclosable fastener and adapted for parking the slider after opening the reclosable fastener.
5. (Rejected) The container according to claim 1, wherein the slider has a leading edge in the opening direction, the leading edge adapted to engage the cover at about the first end of the reclosable fastener to open the container.
6. (Rejected) The container according to claim 1, wherein the cover comprises a flexible lip extending from the reclosable fastener.
7. (Rejected) The container according to claim 6, wherein the slider is adapted to engage the flexible lip at about the first end of the fastener to initiate opening of the reclosable fastener.

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8. (Rejected) The container according to claim 7, wherein the slider engages an underneath side of the flexible lip forcing the cover to separate from the container body.
9. (Rejected) The container according to claim 6, wherein the ramp and the first end of the reclosable fastener define an angle therebetween, the angle sufficiently steep to allow the slider to engage the flexible lip at about the first end of the fastener to initiate opening of the reclosable fastener.
10. (Rejected) The container according to claim 9, wherein the angle is an acute angle.
11. (Rejected) The container according to claim 1, wherein the reclosable fastener comprises interlocking protruded and recessed elements, the protruded element is provided on the container body and the recessed element is provided on the cover.
12. (Rejected) The container according to claim 1, wherein the ramp has a radius of curvature at about the first end of the fastener.
13. (Rejected) The container according to claim 1, wherein the ramp extends linearly for a distance to allow the slider to be parked without interfering with the cover.
14. (Rejected) The container according to claim 1, wherein the reclosable fastener is sealable.
15. (Rejected) The container according to claim 1, wherein the reclosable fastener is adapted to fasten the cover around at least a portion of a perimeter of the container.
16. (Rejected) The container according to claim 15, wherein the portion of the perimeter defines a single plane.
17. (Rejected) The container according to claim 15, wherein the portion of the perimeter defines more than one plane.
18. (Rejected) A container comprising:
a cover comprising a first fastener portion,

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a container body comprising a second fastener portion adapted to engage the first fastener portion to form a reclosable fastener having a first end and a second end, wherein the cover defines an X-Y plane when the first fastener portion and second fastener portion are engaged;
a slider slidably attached to the reclosable fastener and movable along the reclosable fastener to open or close the reclosable fastener; and
a ramp extending from the reclosable fastener at an angle to the XY plane and providing a parking location for the slider.

19. (Rejected) A rigid elongate reclosable fastener comprising interlocking protruded and recessed portions, the fastener defining a plane comprising orthogonal X and Y dimensions when the portions are interlocked, a slider, and a track for the slider, the track including a fastener portion formed on at least one of the interlocking portions and a ramp extending from a first end of the interlocking portions at an angle to the X-Y plane, wherein the slider is moved along the track to open or close the interlocking portions.
20. (Rejected) The container according to claim 6, wherein the ramp and the first end of the reclosable fastener define an angle therebetween, the angle sufficiently steep to allow the slider to initiate opening of the reclosable fastener.

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EVIDENCE APPENDIX

None

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RELATED PROCEEDINGS APPENDIX

None